

Individual Practices of
Magistrate Judge Arlene R. Lindsay
Long Island Federal Courthouse
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Hours: 9:30 a.m. to 5:00 p.m.

Motions Returnable: To be set by the Court

Unless otherwise ordered by the judge in a specific case, matters before the judge shall be conducted in accordance with the following practices:

1. *Communications with Chambers*

A. *Letters.* Except as provided below, communications with chambers shall be by letter, with copies simultaneously delivered to all counsel. Copies of correspondence between counsel shall not be sent to the Court. Letters are not to exceed three (3) pages in length.

B. *Telephone Calls.* In addition to Paragraph 1(D) below, telephone calls to chambers are permitted.

C. *Faxes.* Faxes to chambers are not permitted unless prior authorization is obtained. When an authorized fax has been sent, do not send a hard copy.

D. *Docketing, Scheduling, and Calendar Matters.* For docketing, scheduling, and calendar matters, call Maria Garcia for criminal matters and the law clerk for civil matters.

E. *Requests for Adjournments or Extensions of Time.* All requests for adjournments or extensions of time shall be made at least 48 hours prior to the scheduled appearance, absent an emergency. Such letter applications must state whether all parties consent and include, where appropriate, a proposed amended pre-trial scheduling order or an indication of when the parties are available.

2. *Motions*

A. *Discovery Motions.* For discovery motions, follow Local Civil Rules 37.3 and 6.4. A letter not exceeding three (3) pages in length may be

submitted and should succinctly describe the discovery problem and the efforts made to resolve it. The parties are advised that they should attempt to resolve disputes by conferring in good faith with their adversary. The Court interprets good faith to include in-person contact either by telephone or in person. A response, which may not exceed three (3) pages in length, must be filed within seven (7) days. Replies are not permitted without the permission of the Court.

B. Pre-Motion Conferences in Civil Cases. For motions other than discovery motions, a pre-motion conference with the Court is required before the filing of any motion. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. A response, which may not exceed three (3) pages in length, must be filed within seven (7) days. Replies are not permitted without the permission of the Court. This paragraph does not apply to any of the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A). A pre-motion conference is not required before making such motions, which should be filed when served.

C. Filing of Papers. All original motion papers, opposition papers, and reply papers must be filed with the Clerk of the Court. All courtesy copies should either be mailed directly to chambers or delivered to the Clerk's Office.

D. General Motion Individual Practices. Pursuant to Rule 6 of the Federal Rules of Civil Procedure and Local Civil Rule 6.1, as of January 1, 2000, the following Individual Rules will govern the service and filing of motion papers. These Rules are being adopted in response to the Civil Justice Reform Act reporting requirements which have recently been amended. The amendment to the reporting requirements states: "the pending date for a motion to be reported is 30 days after the motion is filed or, if the motion papers are not filed until the motion is fully briefed, then the date the motion is first served. If no decision on the motion has been entered on the docket six months after the pending date, the motion should be reported as pending before the district or magistrate judge." In order to ensure that the Court has a full six month period to either render a decision on a fully-briefed motion, or report that no decision has been made, the following Rules have been promulgated:

1. Unless otherwise ordered by the Court, any motion, the notice of motion, supporting affidavits, and memoranda shall be served and filed as follows:

- (a) On all civil motions, petitions, and applications except for motions for summary judgment, admission pro hac vice, motions in conjunction with bankruptcy and social security appeals, motions objecting to a Magistrate Judge's Report and Recommendation, and petitions for writs of habeas corpus, (i) the notice of motion,

supporting affidavits, and memoranda of law shall be served on all other parties that have appeared in the action and filed by the moving party with the Court and; (ii) any opposing affidavits and answering memoranda of law shall be served on all other parties that have appeared in the action and filed with the Court within ten (10) business days after service of the moving papers; and (iii) any reply affidavit and reply memoranda of law shall be served on all other parties that have appeared in the action and filed with the Court within five (5) business days after service of the opposing papers.

(b) Absent extraordinary circumstances no extensions will be granted.

(c) Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

(d) Courtesy copies of all motion papers shall be provided to the Court upon filing of the motion, opposition, and reply briefs.

(e) A statement must be included on the cover of the moving, opposition, or reply papers as to whether oral argument is requested. If any party requests oral argument, the Court will notify the parties as to the date and time of such argument.

(f) Should the non-movant seek to make a cross-motion, this cross-motion must follow the same procedures as utilized for making the motion.

(g) Motions not in conformity with these individual practices will be returned.

E. Motions for Summary Judgment.

1. Any party wishing to make a motion for summary judgment must first serve upon all parties a statement pursuant to Local Civil Rule 56.1 ("Rule 56.1") setting forth those items about which there is no material issue of fact. Each statement of material fact must be followed by a citation to evidence which would be admissible, as set forth and required by Rule 56(e) of the Federal Rules of Civil Procedure. All parties receiving such a Rule 56.1 statement and wishing to oppose the motion, must serve on the movant, within seven (7) days of receiving the movant's Rule 56.1 statement, an original and two copies of a counter-statement pursuant to Rule 56.1 setting forth those items about which there exists a genuine issue of material fact. Again, a statement of material fact must be followed by a citation to evidence which would be admissible, as set forth and required by Rule 56(e) of the Federal Rules of Civil Procedure. Should the non-movant require additional time, the parties may agree among themselves to a reasonable extension.

2. After receiving the counter-statement pursuant to Rule 56, should the movant still wish to move for summary judgment, the movant is directed to write to the Court and request a pre-motion conference. In no more than two (2) pages, the letter should briefly state the basis for the anticipated motion. The letter shall also contain a copy of the Rule 56.1 statement and the non-movant's counter-statement. In no more than two (2) pages, all parties served with this letter must serve and file a letter in response within seven (7) days from service of the notification letter.
3. The arrangements for a pre-motion conference must be made with the Court prior to any deadline established by the pretrial scheduling order.
4. Adherence to Rule 56.1 is required. A pre-motion conference will not be held until such time that the parties are in compliance with Rule 56.1.
5. At the pre-motion conference, if the movant decides to make a motion for summary judgment, a briefing schedule will be established by the Court at the conference in accordance with the General Motion Individual Practices stated above. There will be no adjournments of this briefing schedule.

F. Motions for Admission Pro Hac Vice.

A motion for admission pro hac vice, together with a proposed Order admitting the attorney pro hac vice, shall be served and filed at least seven (7) days prior to the return date designated in the notice of motion. Although there is no need to file a memorandum of law, this motion must comply with the Rules of the Eastern District of New York for admission pro hac vice. These motions shall be on submission. Should any party object to the motion, opposition papers must be served and filed at least two (2) days prior to the return date. There will be no reply papers permitted.

3. Pretrial Procedures.

A. Joint Pretrial Orders in Civil Cases. Unless otherwise ordered by the Court, within 60 days from the date for the completion of discovery in a civil case, the parties shall submit to the Court for its approval a joint pretrial order, which shall include the following:

- i. The full caption of the action.
- ii. The names, addresses (including firm names), and telephone and fax numbers of trial counsel.

- iii. A brief statement by plaintiff as to the basis of subject matter jurisdiction and a brief statement by each other party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
- iv. A brief summary by each party of the claims and defenses that party has asserted which remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted which are not to be tried.
- v. A statement by each party as to whether the case is to be tried with or without a jury, and the number of trial days needed.
- vi. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
- vii. Any stipulations or agreed statements of fact or law which have been agreed to by all parties.
- viii. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.
- ix. A designation by each party of deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.
- x. A list by each party of exhibits to be offered in its case in chief, with one star indicating exhibits to which no party objects on grounds of authenticity, and two stars indicating exhibits to which no party objects on any ground.

B. *Filings Prior to Trial in Civil Cases.* Unless otherwise ordered by the Court, each party shall file, 15 days before the date of commencement of trial if such a date has been fixed, or 30 days after the filing of the final pretrial order if no trial date has been fixed:

- i. On the Wednesday before trial in jury cases, requests to charge and proposed voir dire questions. Requests to charge should be limited to the elements of the claims, the damages sought and defenses. General instructions will be prepared by the court. When feasible, proposed jury charges should also be submitted on a 3.5" diskette in IBM Word Perfect format;

- ii. By claim, a detailed statement regarding damages and other relief sought;
- iii. In non-jury cases, a statement of the elements of each claim of defense involving such party, together with a summary of the facts relied upon to establish each element;
- iv. In all cases, motions addressing any evidentiary or other issues which should be resolved in limine; and
- v. In any case where such party believes it would be useful, a pretrial memorandum.